

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

TIAIESHA FIELDS,
in care of J.D.V.,

Civil 09-3156 (MJD/JSM)

Plaintiff,

REPORT AND RECOMMENDATION

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

Plaintiff commenced this action on November 13, 2009, by filing a civil complaint, and an application seeking leave to proceed in forma pauperis, ("IFP"). (Docket Nos. 1 and 2.) The Court granted plaintiff's Application to Proceed In Forma Pauperis [Docket No. 3] and the U.S. Marshal served the Complaint upon defendant on December 30, 2009 [Docket No. 6]. An Answer was filed by defendant on March 1, 2010 [Docket No. 7]. Plaintiff did not file her Motion for Summary Judgment within 60 days of the Answer, thus on May 10, 2010, an Order to show cause was filed and ordered the plaintiff:

to show good cause, in writing, within ten (10) days of the date of this Order, why she should be granted a short extension of time in which to file her Motion for Summary Judgment, and how much additional time she needs to file the motion. In the absence of a written submission to this Court and good cause shown, the Court shall recommend that this action be dismissed for failure to timely file the plaintiff's Motion for Summary Judgment and for failure of prosecution.

[Docket No. 10].

On May 21, 2010, plaintiff filed a document only stating that she was "filing for motion extend [sic] for Plaintiff (J.D.V.). I am his mother Tiaiesha Fields" [Docket No. 11].

This document was signed by Tiaiesha Fields and dated May 17, 2010. Id. This submission by plaintiff did not comply with this Court's May 10, 2010 Order because it did not describe (1) why she should be granted an extension, and (2) how much time she needed to file the motion for summary judgment.

Therefore, it is now recommended, in accordance with the Court's prior order, that this action be summarily dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). See Henderson v. Renaissance Grand Hotel, 267 Fed.Appx. 496, 497 (8th Cir. 2008) (unpublished opinion) ("[a] district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order"); Link v. Wabash Railroad Co., 370 U.S. 626, 630-31 (1962) (federal court has inherent authority to "manage [its] own affairs so as to achieve the orderly and expeditious disposition of cases").

Based upon the above, and upon all the records and proceedings herein,

IT IS HEREBY RECOMMENDED that this action be **dismissed without prejudice**.

Dated: May 26, 2010

s/ Janie S. Mayeron
JANIE S. MAYERON
United States Magistrate Judge

Under D.Minn. LR 72.2(b) any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **June 9, 2010**, a writing which specifically identifies those portions of this Report to which objections are made and the basis of those objections. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. A party may respond to the objecting party's brief within ten days after service thereof. All briefs filed under this rule shall be limited to 3500 words. A judge shall make a de novo determination of those portions of the Report to which objection is made. This Report and Recommendation does not constitute an order or judgment of the District Court, and it is therefore not appealable directly to the Circuit Court of Appeals.